

## INSTRUCTIONS FOR LAWSUITS TO PROHIBIT HARASSMENT

Under California law (Code of Civil Procedure section 527.6), courts can make orders to protect people from being harassed by others. These orders will be enforced by law enforcement agencies.

The person asking for these orders is called the "plaintiff." The plaintiff needs to file an action in Superior Court against the other person ("defendant") to get these orders. There will be a court hearing within 15 days of the filing. The plaintiff can sometimes get a temporary court order against the defendant even before the hearing.

This instruction booklet tells what court orders a victim of harassment can get and how to get them. It also includes directions for a person charged with harassment.

These instructions cannot cover all of the problems and questions that may arise in a particular case. If you do not know what to do to protect your rights, you should see an attorney.

## GENERAL INFORMATION

### Who can get orders prohibiting harassment?

Most people who are victims of harassment can ask the court for these orders. A person may seek protection under this law if:

- (1) the defendant's conduct is *intentional*; and
- (2) the defendant has done a *series of acts* (more than one) which seriously alarms, annoys or harasses the plaintiff; and
- (3) plaintiff has suffered a lot of emotional distress; and
- (4) the defendant's conduct has no legitimate reason and is not protected by the constitution.

This law does not apply to any action covered by Domestic Violence Prevention Act, Family Law Act or Uniform Parentage Act (see Instructions for Orders Prohibiting Domestic Violence if you are unsure which papers to file). You cannot use this law if the disagreement involves the collection of a debt.

The court may require the losing party—whether the plaintiff or defendant—to pay the winning party court costs and attorney's fees.

### What do you need to get the court orders or to object to them?

1. Harassment forms, available from the county clerk's office or legal publishers. The county clerk can tell you where to get the forms.
2. You may need a typewriter to fill out the forms. Ask the clerk. If there is a requirement that the forms be typed, some women's shelters and volunteer legal service groups have typewriters you can use. In some libraries you can use a typewriter for a small fee. If you do not type, print clearly.
3. Money for a court filing fee, unless the court excuses you from paying. If you cannot afford to pay the court filing fee, ask the clerk for the Information Sheet on Waiver of Court Fees and Costs.
4. Someone, other than yourself, 18 years of age or older, to deliver (**serve**) certain papers to the other party.

### What forms are available for suing under the harassment law and for opposing those suits?

1. *Petition for Injunction Prohibiting Harassment and Application for Temporary Restraining Order* [**Petition**]. This three-page form tells the judge the facts of the plaintiff's case and what orders the plaintiff wants the court to make.

2. *Order to Show Cause* [**OSC**] and Temporary Restraining Order [**TRO**]. The **OSC**, when signed by the judge, tells the defendant to come to court for the hearing. It may include one or more temporary orders (**TRO**) which take effect immediately and stay in effect until the hearing.
3. *Response to Petition for Injunction Prohibiting Harassment* [**Response**]. The defendant may file this form to state objections to the orders the plaintiff has asked the court to make and to give his or her side.
4. *Order After Hearing on Petition for Injunction Prohibiting Harassment* [**Order**]. This is the form signed by the court following the hearing. The order will stay in effect for up to three years depending on what the judge rules.
5. *Proof of Personal Service (Harassment) and Proof of Service By Mail (Harassment)*. These forms are used to show that the other party has been **served** with the legal documents as required by law.

### Should you see a lawyer?

You have the right to file or defend the suit and to go to court with or without an attorney. You should seek the advice of an attorney, since any lawsuit may involve technical problems that cannot be explained in a printed form. Whether or not you have an attorney, the other party may have one.

You may hire a lawyer to represent you, but you can also just visit a lawyer for advice. Do not be afraid to ask the lawyer in advance what the fee will be. After hearing about your personal situation, an attorney can help by advising whether a civil harassment order is the best protection or what defenses, if any, exist to the orders requested.

Ask friends and co-workers and check the yellow pages of your telephone book under "Attorneys" or "Attorney Referral Services" for organizations that can help you find a lawyer. You can get information about free or low-cost legal services through the bar association in your county. In some areas you can also call a women's shelter for recommendations. In many cases you can find an attorney who charges either no fee or a small fee for your first visit, but you may need to call several attorneys and compare fees and services. In some areas, there are groups (clinics or shelters) that will help you fill out the forms.

## INSTRUCTIONS FOR THE PLAINTIFF

### What steps need to be taken to get the court orders?

1. You will need at least five copies of each harassment form: one for a worksheet, the original to file with the court, a copy to be personally delivered (**served**) to the defendant and two copies for yourself. In addition, you will need extra copies of the **OSC**, the **Order**, and the Proof of Service form. Get one for

each law enforcement agency you want to enforce your orders, and two extras for yourself.

2. Fill in the **Petition** and the **OSC** except for the date of the court hearing and the judge's signature. (Reminder: most courts require that all forms be typewritten.)

- a. If you are not represented by an attorney, fill in your name, mailing address, and phone number at the top of each form. If you do not want to disclose your home or work address or phone number, you may use an address or phone number where you will be able to receive any communications.
  - b. Fill in the name of the county where the action will be filed and the address of the superior court.
  - c. Type your full name and the defendant's full name.
  - d. Check ("X") all boxes that apply to your case. Read each item carefully and fill in the necessary information. Be specific.
  - e. Remember to date and sign the **Petition**.
3. If you are requesting a temporary restraining order, you must give the details of the recent acts of harassment and the problems they have caused you. Place an "X" in the box in the caption marked "Application for Temporary Restraining Order."
  4. Take all your completed forms and all copies to the county clerk's office in the superior court. The clerk will tell you where to take your papers and when to pay your filing fee, if required.
  5. If the judge signs the **OSC**, take the original and all copies back to the court clerk. The clerk will stamp all the papers with a case number. The copies will be stamped with an "Endorsed-Filed" stamp (showing the date of filing), the judge's signature and date of signing. The clerk will file the originals and give you the copies. **KEEP TWO ENDORSED-FILED COPIES FOR YOURSELF**. Carry one with you and keep one in a safe place. You may need one if you have to call the police.
  6. Have the defendant personally **served** with copies of the **Petition**, **OSC**, and a blank copy of the **Response**. You *cannot* serve the defendant yourself. Service may be made by a licensed process server, the sheriff's department, or any person 18 years of age or older, other than you.

## INSTRUCTIONS FOR THE DEFENDANT

1. If you are served with an Order to Show Cause (Harassment) [**OSC**] and a Petition for Injunction Prohibiting Harassment [**Petition**], you should promptly seek legal advice. If you have no attorney, the attorney's reference service of your local bar association may be of assistance.
2. Whether or not you choose to consult an attorney, you should read this entire instruction booklet and other documents you have received.
3. Read the papers served on you very carefully. The Order to Show Cause [**OSC**] tells you when to appear in court and may contain a temporary order forbidding you from doing certain things. **If you disobey the court's orders, criminal charges may be filed against you.**
4. If you wish to oppose the petition, or make your own request for court orders, you should file a Response to Petition for Injunction Prohibiting Harassment [**Response**].

**Service** is very important. It tells the defendant about the order and the hearing. Without it there will not be a court hearing and your temporary orders will no longer be good unless they are extended by the court. The defendant must be personally served at least five days before the hearing—unless the court, for good cause, on motion of the plaintiff or on its own motion, shortens the time for service on the defendant.

7. If you have requested any temporary orders and the judge has granted them, immediately deliver copies of the Temporary Restraining Order to each law enforcement agency (police, marshal, or sheriff's office) that you want to enforce the order.
8. After the defendant has been personally **served**, the person who served the defendant must complete and sign the original of the Proof of Personal Service form. You should take the signed original and the copies back to the court clerk. The clerk will file the original and stamp "Endorsed-Filed" on the copies. Take one of the Endorsed-Filed copies to each of the law enforcement agencies where you filed your Temporary Restraining Order. Keep two Endorsed-Filed copies for yourself.
9. Go to the court hearing with any evidence you might have. The **Order** should be filed in and given to the judge for signing. If there are any witnesses to the defendant's conduct or your emotional distress they should also be there.
10. If the judge signs the **Order**, file the original with the clerk, get the copies stamped with an "Endorsed-Filed" stamp, and immediately deliver copies to law enforcement agencies.

If the defendant was not present in court for the hearing, arrange to have defendant personally **served** with a copy of the order. File the completed Proof of Personal Service with the court and deliver copies stamped "Endorsed-Filed" to law enforcement agencies. **KEEP TWO COPIES FOR YOURSELF**. Carry one with you and keep one in a safe place.

In addition to the **Response**, you may file and serve declarations signed by persons who have personal knowledge of the facts. If you do not know how to prepare a declaration, you should see an attorney. After you have filed the **Response** with the county clerk, a copy must be delivered personally or by mail to the plaintiff or the plaintiff's attorney.

You cannot serve the plaintiff yourself. The person should complete and sign a Proof of Service (Harassment) form. You should take the completed form back to the court clerk or bring it with you to the hearing.

5. If you wish to oppose the lawsuit, you should file a **Response** and also be present at the hearing. If you have any witnesses, they must also be present.
6. If you wish to file a cross-complaint against the plaintiff for harassing you, you must file a completed form called Petition for Injunction Prohibiting Harassment.

The next three pages show a **Petition** which has been completed with examples of the kind of information a court is likely to want.

If you are not represented by an attorney, fill in your name, mailing address, and phone number at the top of each form.

If you do not want the defendant to know where you are living, you can use a friend's address and telephone number. Be sure you can be contacted with the information you put in this box.

County where you are filing your case. Call the county clerk if do not know the address.

Your full name.

The full name of the person you want the orders against.

Check this box if you are asking for orders to go into effect immediately when the Temporary Restraining Order is signed by the judge. You will also need to check the box at item 10 and give the necessary information.

Put an "X" in the box that applies in items 1, 2, and 3. You must check one box in each of those items.

Item 4 is the most important part of your petition. This information is all the judge will know about your case until the hearing. Give details of the most recent incidents.

See Instructions for Orders Prohibiting Domestic Violence if you are unsure which papers to file.

If you have so many facts they will not all fit, put an "X" in this box and write the facts on a separate piece of paper and attach it to the back of your petition, after page three. Use white paper the same size as this form.

The county clerk will give you this number. Use it on all forms you file later.

After this form is filed, the clerk will stamp this box on the copies so everyone knows it is a copy of an official paper. This is the place for the "Endorsed-Filed" stamp.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): Terry Doe P.O. Box 500 Anytown, California 91234		TELEPHONE NO.:	FOR COURT USE ONLY
ATTORNEY FOR (Name): In Pro Per SUPERIOR COURT OF CALIFORNIA, COUNTY OF Any county STREET ADDRESS: 100 Elm Street MAILING ADDRESS: P.O. Box 109 CITY AND ZIP CODE: Anytown, California 91235 BRANCH NAME:			
PLAINTIFF: Terry Roe DEFENDANT: Pat Roe			
PETITION FOR INJUNCTION PROHIBITING HARASSMENT <input checked="" type="checkbox"/> Application for Temporary Restraining Order		CASE NUMBER:	

(This is NOT an order)

Read the Instructions for Lawsuits to Prohibit Harassment before completing this form.

This suit is filed in this county because

1. a. ☐ defendant resides in this county  
b. ☒ defendant has caused physical or emotional injury to me in this county.  
c. ☐ other (specify):
2. This suit is not filed under the Domestic Violence Prevention Act, Family Law Act, or Uniform Parentage Act because  
a. ☒ defendant and I are not married or formerly married or related by blood, marriage, or adoption, are not living together, have not lived together in the past six months, and have no minor child in common who is the subject of an action under the Uniform Parentage Act.  
b. ☐ although plaintiff and defendant are married or related by blood, marriage, or adoption or have lived together, defendant's course of conduct has not included act of violence which resulted in physical injury to plaintiff or placed plaintiff in reasonable fear of imminent serious physical injury.  
c. ☐ other (specify):
3. This suit is not brought under laws against unfair debt collection practices because  
a. ☐ defendant does not claim plaintiff owes a debt;  
b. ☒ defendant is not debt collector;  
c. ☐ other (specify):

4. Defendant (name): Pat Roe, has committed a series of acts which seriously alarm, annoy, or harass me.  
(Describe in detail the most recent incidents of harassment. State what happened, the dates, and who did what to whom.  
Describe any injuries, including emotional distress): Defendant and I are former neighbors. Two months ago I had to move because defendant kept making threats against me and blocked my passage into my apartment. Since I've moved, defendant constantly follows me and phones me at all hours of the day and night. On November 15, 1986, defendant followed me to a restaurant where I was having dinner with a friend. Defendant kept calling me names and threatened to "get me." Defendant left before the police got there. On November 18, 19, and 20, 1986, defendant called me at work at least 15 times each day. I can't do my job because of the constant interruptions. I've had to go to the doctor for medicine to calm my nerves. I've lost weight and can't sleep at night.

(If more space is needed, attach additional pages and check this box:)

☐

(Page one of three)

Form Approved by the  
Judicial Council of California  
CH-100 [Rev. January 1, 1997]

PETITION FOR INJUNCTION PROHIBITING HARASSMENT

CCP 527.6

Fill this in.

Leave this blank.

PLAINTIFF (Name): Terry Doe	CASE NUMBER:
DEFENDANT (Name): Pat Roe	

(This is NOT an order)

5. I have actually suffered substantial emotional distress as a direct result of defendant's conduct described in item 4, and defendant's conduct would have caused a reasonable person to suffer substantial emotional distress.

6. Defendant's continuing course of conduct has been directed specifically against me and is knowing, willful, not constitutionally protected, and without legitimate purpose.

I REQUEST THE COURT TO MAKE THE ORDERS INDICATED BY THE CHECK MARKS IN THE BOXES BELOW.

7. ☒ RESTRAINING ORDERS ☒ To be ordered now and effective until the hearing.

Defendant, who resides at (state address if known):

and works at (state address if known):

must not alarm, annoy, or harass plaintiff (name):

☐ and the following family and household members (names):

and specifically must

a. ☒ not threaten, strike, or make physical contact with plaintiff  
☐ and the following family and household members (names):

b. ☐ not keep plaintiff under surveillance  
☐ and the following family and household members (names):

c. ☒ not follow plaintiff  
☐ and the following family and household members (names):

d. ☒ not telephone plaintiff  
☐ and the following family and household members (names):

e. ☒ not block plaintiff's movements in public places or thoroughfares  
☐ and the following family and household members (names):

8. ☒ STAY-AWAY ORDERS ☒ To be ordered now and effective until the hearing.

Defendant must stay at least (specify): 150 yards away from the following persons and places (the addresses of the places are optional and you do not have to reveal them):

a. Plaintiff  
☐ and the following family and household members (names):

b. ☒ Plaintiff's residence (address optional):

c. ☒ Plaintiff's place of work (address optional): 315 Grove Street, Anytown, California

d. ☐ Plaintiff's children's school or place of child care (address optional):

e. ☐ Other (specify):  
(address optional):

(Continued on next page)

CH-100 [Rev. January 1, 1997]

PETITION FOR INJUNCTION PROHIBITING HARASSMENT

Page two of three

Put an "X" in the boxes that apply to your case. Leave the boxes empty if they do not apply to your case.

You do not need to give specific addresses in item 8. However, it may be easier for the police to enforce your orders if they know the defendant knows the addresses to stay away from.

Whenever you check these boxes, you are asking for the order to go into effect immediately, as soon as the TRO is signed by the judge. You will also need to check the box at item 10 and give the necessary information.

If you are asking for the orders to go into effect immediately, as soon as the judge signs the **TRO**, you *must* check this box and state the reasons. State what harm would result to you if the orders were not made immediately.

If you ask for attorney fees, bring receipts of bills for these fees to your hearing.

This space is where you ask for other orders you need. If you use this space, be sure to put in facts and dates in item 4 on page one of your **Petition** that would give the court a reason to order what you ask for here.

Most courts require that the defendant be served at least two days before the hearing, but some may require a longer time for service. The judge can shorten the time to two days before the hearing, and it is a good idea to ask for this when you think the defendant will be hard to find and serve.

**Note:** Fill in the **OSC** in the same way as your **Petition** except as follows:

1. Leave item 3 on the **OSC** blank. The county clerk or the judge will insert the date. Your hearing will be within 15 days after the filing of the **Petition**.
2. Do not date or sign the **OSC**.

You must check one of the boxes in item 9.

List all the agencies you may want to enforce your order. The court will either tell the clerk to mail copies of the orders to the agencies or direct you or your attorney (if you have one) to deliver them personally.

PLAINTIFF (Name): <u>Terry Doe</u>	CASE NUMBER:
DEFENDANT (Name): <u>Pat Roe</u>	

*(This is NOT an order)*

9. Will granting of any of the stay-away orders in item 8 deprive defendant of access to defendant's residence or place of employment?  
☐ Yes ☒ No  
If yes, please explain:

10. ☒ I will suffer great and irreparable harm before this petition can be heard in court unless the court makes those orders requested above effective now and until the hearing. *(Specify the harm and why it will occur before the hearing):*  
If defendant isn't ordered to stop harassing me immediately, I will lose my job. My employer has threatened me with loss of my job because of the numerous phone calls defendant makes to me. I'm afraid to go anywhere because defendant keeps following me.

11. ☒ **ATTORNEY FEES AND COSTS**  
Defendant should be ordered to pay attorney fees and costs as follows *(specify)*:  
Filing fee plus cost of service plus \$25.00 for a half hour consultation with an attorney. I will bring the bills and receipts to the hearing

12. ☐ **OTHER ORDERS** *(specify other orders you request to help carry out the orders previously requested):*

13. I request that copies of order be given to the following law enforcement agencies:  

<u>Law enforcement agency</u>	<u>Address</u>
Anytown Police Department	100 Oak Street, Anytown, California 91234
Any County Sheriff Department	200 Jones Street, Anytown, California 91235

14. ☒ I request that time for service of the Order to Show Cause and accompanying papers be shortened so that they may be served no less than *(specify number)*: two (2) days before the time set for the hearing. I need to have the order shortening time because of the facts contained in this petition. *(Add additional facts if necessary)*:  
I need this hearing as soon as possible. I have to stay with friends because I'm afraid to go home.

15. ☐ I have asked for restraining orders against defendant before.

16. I request additional relief as may be proper.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: November 21, 1986

<u>Terry Doe</u> <small>(TYPE OR PRINT NAME)</small>	 <u>Terry Doe</u> <small>(SIGNATURE OF PLAINTIFF)</small>
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17. ☐ Number of pages attached.

CH-100 [Rev. January 1, 1997] **PETITION FOR INJUNCTION PROHIBITING HARASSMENT** Page three of three

**VERY IMPORTANT**

1. The date you sign.
2. Your signature.

**DO NOT FORGET THESE OR ALL YOUR WORK WILL BE WASTED**